

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT APPLICATION EXAMINING OPERATIONS

Appl. No.	: 10/002,781	Confirmation No. 5371
Applicant	: Andrew R. Ferlitsch	
Filed	: October 29, 2001	
TC/A.U.	: 2625	
Examiner	: Murphy, Dillon J.	
Docket No.	: SLA1031	
Customer No.	: 52894	
Title	: METHODS AND SYSTEMS FOR PRINT JOB INTERLEAVING	

Pre-Appeal Brief Request for Review

The examiner has rejected claims 1-3, 5, 9-11, 13, 16 and 17 under 35 U.S.C. §103(a) as being unpatentable over Takeda (U.S. 6,229,622), hereinafter Takeda, in view of Wanda (U.S. 6,474,881), hereinafter Wanda.

The examiner has rejected claim 7 under 35 U.S.C. §103(a) as being unpatentable over Takeda (U.S. 6,229,622), hereinafter Takeda, in view of Wanda (U.S. 6,474,881), hereinafter Wanda, and in further view of Utsunomiya et al. (U.S. 5,822,500), hereinafter Utsunomiya et al.

The examiner has rejected claim 8 under 35 U.S.C. §103(a) as being unpatentable over Takeda (U.S. 6,229,622), hereinafter Takeda, in view of Wanda (U.S. 6,474,881), hereinafter Wanda, and in further view of Keeney et al. (U.S. 6,748,471), hereinafter Keeney et al.

The examiner has rejected claims 12, 14 and 15 under 35 U.S.C. §103(a) as being unpatentable over Takeda (U.S. 6,229,622), hereinafter Takeda, in view of Wanda (U.S. 6,474,881), hereinafter Wanda, and in further view of Rabjohns et al. (U.S. 5,697,040), hereinafter Rabjohns et al.

The examiner's rejection of the applicant's claims is improper and the *prima facie* case of obviousness cannot be properly made. The CCPA had and the Federal Circuit has consistently held that when a §103 rejection is based upon a modification of a reference that destroys the

intent, purpose or function of the invention disclosed in the reference, such a proposed modification is not proper and the *prima facie* case of obviousness cannot be properly made (*In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (fed. Cir. 1984)).

Claims 1, 13, 14, 16 and 17 are independent claims each comprising an element wherein a combined print job is generated by interleaving sub-jobs resulting from the partitioning of at least one original print job with any remaining original print jobs. Claims 2-3, 5 and 7-12 depend from claim 1 and comprise all the limitations therein. Claim 15 depends from claim 14 and comprises all the limitations therein.

The examiner suggests modifying the method of Takeda with the teachings of Wanda to cause generation of a combined job comprising the interleaved sub-jobs and original jobs. Takeda and Wanda are not properly combinable or modifiable because the intended function of Wanda is destroyed in combination or modification with Takeda.

Takeda teaches methods of sequentially extracting spooled print data that has been received by a printer and spooled by a printer's internal spooler to an internal printer storage device. The printer spool area taught by Takeda is partitioned in advance (Takeda: column 6, lines 14-15) with each spool partition corresponding to a user or a type of PDL (column 6, lines 8-11). Takeda teaches alternately extracting predetermined amounts of print data from the partitions of the printer spool area (Takeda: column 7, lines 7-38; column 9, lines 22-25) and printing the smaller portions of the print jobs individually (Takeda: column 5, lines 23-34) thereby allowing smaller print jobs to print without waiting for completion of large print jobs. Wanda teaches grouping print jobs "to print continuously in the specified order by one operation a series of print jobs..." (Wanda: Abstract) thereby allowing the printing of a plurality of jobs without interruption of the group job (Wanda: column 1, lines 44-50).

Takeda and Wanda are not properly combinable or modifiable because the intended function of Wanda is destroyed in combination or modification with Takeda. Wanda's grouping of jobs, the combined job as cited by the examiner, is taught to effectuate uninterrupted printing of the group. Sending such a "combined" job to the printer of Takeda will effectuate the spooling of the job into a partition of the spooler from which portions of the jobs will be pulled to be printed in alternating sequence with portions of other jobs in other partitions, thereby interrupting the printing of the group or combined job.

The examiner's rejection of the applicant's claims is further improper and the *prima facie* case of obviousness cannot be properly made due to lack of basis in the art for combining and modifying the references. The MPEP §2143.01 provides that the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination (*In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)). The examiner asserts that Takeda and Wanda are combinable because "they are from a similar field of endeavor of network printing multiple jobs concurrently." Takeda teaches methods of sequentially extracting spooled print data that has been received by a printer and spooled by a printer's internal spooler to an internal printer storage device, thereby alleviating the wait for users who are to print out small quantities of printed matter while a large print job to complete (Takeda: Abstract). Wanda, however, groups together jobs to allow the printing of a plurality of jobs without interruption of the group job. While both Takeda and Wanda are printing related, there is no teaching to combine a method for effectively interrupting a print job (Takeda) with a method for not allowing interruption of a print job (Wanda).

The examiner acknowledges that Takeda does not disclose expressly a method comprising generating a combined print job comprising a plurality of user jobs. The claimed

embodiments of the applicant's invention partition print jobs into sub-jobs and form a single logical print job by alternating sub-jobs from the separate print jobs at a non-printing device prior to any print job being sent to a printer. The combined print job may then be sent to the printer where the print job prints as a single job. This element is common to all independent claims as shown below.

Independent claim 1 comprises the element of:

“generating a combined print job, wherein said generating comprises interleaving said sub-jobs and any remaining original print with said non-printer computing device.”

Independent claim 13 comprises the element of:

“generating a combined print job, wherein said generating comprises interleaving said sub-jobs and any remaining original print jobs with said print system component.”

Independent claim 14 comprises the element of:

“forming a combined print job, wherein said forming comprises interleaving said sub-jobs with said smaller original print job.”

Independent claim 16 comprises the element of:

“a combiner for forming a combined print job, wherein said combiner comprises an interleaver for interleaving said smaller sub-jobs and any remaining original print jobs.”

Independent claim 17 comprises the element of:

“forming a combined print job, wherein said forming comprises interleaving said smaller sub-jobs with any remaining original print jobs.”

The applicant asserts that the element of the claimed embodiments of the applicant's invention is not the generation of a combined print job comprising a plurality of user jobs, but the generation of a combined print job comprising *interleaving* (emphasis added) sub-jobs and original print jobs. None of the cited prior art teaches this element.

The applicant acknowledges the examiner's objections to claims 13, 14 and 16, and the applicant is willing to correct the informalities.

Based on the foregoing amendments and remarks, the applicant respectfully requests reconsideration and allowance of the present application.

Respectfully submitted,

/Scott C. Krieger/

Scott C. Krieger
Reg. No. 42,768
Tel. No.: (360) 828-0589

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

SLA1031

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Signature _____

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Application Number

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Filed

10/29/2001

First Named Inventor

Andrew R. Ferlitsch

Art Unit

2625

Examiner

Murphy, Dillon J..

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record.

Registration number 42,768

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

/Scott C. Krieger/

Signature

Scott C. Krieger

Typed or printed name

(360) 828-0589

Telephone number

February 16, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

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